



Agriculture Committee

Wednesday, January 11, 2006

1:15 pm - 3:15 pm

214 The Capitol

MEETING PACKET

Allan G. Bense
Speaker

Ralph Poppell
Dwight Stansel
Co-Chairs

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Agriculture Committee

Start Date and Time: Wednesday, January 11, 2006 01:15 pm

End Date and Time: Wednesday, January 11, 2006 03:15 pm

Location: 214 Capitol

Duration: 2.00 hrs

Consideration of the following bill(s):

HB 37 CS Security of Consumer Credit Report Information by Adams

HB 365 Motor Vehicle Repair Shops by Glorioso

Presentations:

Hurricane damage to Florida's agricultural industry

Farm Share, Inc.

Florida Association of Food Banks, Inc.

Citrus canker update

NOTICE FINALIZED on 12/30/2005 09:32 by SIMS-DAVIS.LINDA

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 37 CS

Security of Consumer Credit Report Information

SPONSOR(S): Adams and others

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Economic Development, Trade & Banking Committee</u>	<u>13 Y, 0 N, w/CS</u>	<u>Sheheane</u>	<u>Carlson</u>
2) <u>Agriculture Committee</u>	<u></u>	<u>Reese</u>	<u>Reese</u>
3) <u>Civil Justice Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Commerce Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill allows a consumer to place a "security freeze" on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. The security freeze prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information contained within the report without the authorized consent of the consumer.

The security freeze lasts until the consumer requests that it be removed or temporarily lifted. The bill does not prohibit a consumer credit reporting agency from informing a third party that a particular consumer credit report has been placed under a security freeze.

The bill prohibits a consumer credit reporting agency from charging a fee to a consumer wishing to place a security freeze on his or her credit report. The bill allows a consumer credit reporting agency to charge a fee, not to exceed \$5, when a consumer elects to temporarily lift or remove a security freeze on his or her credit report.

The bill creates a new cause of action for any person who is aggrieved by a knowing or willful violation of the provisions of the bill for the recovery of actual and consequential damages, court costs, and attorney's fees.

The bill becomes effective on July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty – The bill allows a consumer to protect his or her personal information by placing a security freeze on his or her credit report and to remove or temporarily lift the security freeze at his or her discretion.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Fraud Alert

The federal Fair Credit Reporting Act¹ (FCRA) provides two different types of fraud alerts that consumers may use to protect themselves against identity theft. Fraud alerts are designed to protect a consumer's private credit information if he or she suspects someone is attempting to open credit accounts in the consumer's name. When a business sees the alert on a consumer's credit report, the business must verify the consumer's identity before issuing credit. As part of the verification process, the business may try to contact the consumer directly.

A one-call fraud alert allows a consumer, or an individual acting on behalf of a consumer, who asserts in good faith that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, to request that a consumer reporting agency include a fraud alert on the file of that consumer and also provide that alert along with any credit score generated with that file for a period of 90 days unless the consumer requests that the alert be removed before the end of that time period. The consumer reporting agency must also refer the information regarding the fraud alert to each of the other consumer reporting agencies as described in current law.

An extended alert is provided for a consumer wishing to place an alert on his or her file for a period of up to seven years unless the consumer wishes to remove the alert before the end of that time period. During the first five years of an extended fraud alert, a consumer reporting agency must exclude the consumer from any list of consumers prepared by a consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction not initiated by the consumer. A consumer may request that the exclusion be rescinded before the end of the five year time period. The consumer reporting agency must also refer the information regarding the extended fraud alert to each of the other consumer reporting agencies as described in current law.

The FCRA requires that in any case where a consumer reporting agency includes a fraud alert in the file of a consumer, the consumer credit reporting agency must disclose to the consumer that he or she may request two free copies of the file on the consumer during the 12 month period beginning on the date in which the fraud alert was included in the file.

Fraud alerts do not prevent a credit report from being issued.

Blocking Information Resulting from Identity Theft

The FCRA provides that a consumer credit reporting agency must block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, no later than 4 business days after the receipt by such agency of: appropriate proof of the identity of the consumer; a copy of an identity theft report; the identification of such

¹ 15 U.S.C. ss. 1681 et seq.

information by the consumer; and a statement by the consumer that the information is not related to any transaction by the consumer.

A consumer credit reporting agency is to promptly notify the furnisher of any information that has been identified as information resulting from an alleged identity theft that the information may be the result of identity theft; that an identity theft report has been filed; that a block has been requested; and the effective dates of the block.

A consumer credit reporting agency may decline to block or rescind any block if the consumer credit reporting agency reasonably determines that: the information was blocked in error; a block was requested by the consumer on the basis of material misrepresentation of fact by the consumer relevant to the request to block; or the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

Federal Legislation

There are two bills currently filed in the United States Senate and three bills filed in the House of Representatives relating to the protection of consumer information.

S. 737- The bill amends the FCRA as it relates to consumer reporting agencies furnishing consumer information to the Federal Bureau of Investigation under specific circumstances.

Latest Major Action: 4/6/2005 Referred to Senate Committee on the Judiciary.

S. 1461- The bill provides a consumer with the ability to place a security freeze on his or her private information file if the request is made by certified mail, by telephone by providing certain sensitive personal information, or through a secure electronic mail connection if such a connection is made available by the consumer reporting agency.

The bill requires a consumer reporting agency to place the requested freeze no later than 2 business days after receiving the written or telephone request from the consumer and within 24 hours after receiving an electronic mail request. The bill requires the consumer reporting agency to send a written confirmation to the consumer within 2 business days of placing the requested freeze and to provide the consumer a unique personal identification number or password to be used by the consumer to authorize access to the private information file or to remove the freeze from the file.

The bill prohibits a consumer credit reporting agency from charging a fee for placing, temporarily lifting, or removing a security freeze from a consumer's credit report. The bill prohibits a consumer credit reporting agency from charging a fee to replace or reissue the identification number and password the first time the information is provided to the consumer and allows for a fee to be charged, of not more than \$5, for a second or subsequent replacement of such information.

Latest Major Action: 7/21/2005 Referred to Senate Committee on Banking, Housing, and Urban Affairs.

H.R. 1745- The bill provides for protection of a consumer's Social Security account number to prevent fraudulent misuse and to otherwise enhance protection against identity theft.

Latest Major Action: 5/19/2005 Referred to House Subcommittee on Financial Institutions and Consumer Credit.

H.R. 2715- Similar to H.R. 737, the bill amends the FCRA as it relates to consumer reporting agencies furnishing consumer information to the Federal Bureau of Investigation under specific circumstances.

Latest Major Action: 7/29/2005 Referred to House Subcommittee on Financial Institutions and Consumer Credit.

H.R. 3140- The bill amends the FCRA to expand the protections for sensitive personal information in Federal law to cover the information collection and sharing practices of unregulated information brokers, to enhance information security requirements for consumer reporting agencies and information brokers, and to require consumer reporting agencies, financial institutions, and other entities to notify consumers of data security breaches involving sensitive consumer information.

Latest Major Action: 6/30/2005 Referred to House Committee on Financial Services.

States Offering a Security Freeze

Currently, California, Texas, Louisiana, Vermont, Washington, Nevada, Connecticut, Illinois, Maine, and Colorado offer consumers the right to freeze their credit reports. Texas, Vermont, Washington, and Illinois only offer the option to those consumers affected by identity theft. Florida does not provide for any freeze or block on consumer credit information.

This bill is drawn from language contained in California's and New Jersey's legislation.

Proposed Changes

The bill allows a consumer to place a "security freeze" on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. The security freeze prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information contained within the report without the authorized consent of the consumer. The security freeze lasts until the consumer requests that it be removed. The bill does not prohibit a consumer credit reporting agency from informing a third party that a particular consumer credit report has been placed under a security freeze.

The bill requires a consumer credit reporting agency to place a security freeze on a consumer's credit report no later than five business days after receiving the written request and requires the consumer credit reporting agency to send a written confirmation of the security freeze to the consumer within five business days of instituting the security freeze. A consumer credit reporting agency must remove the security freeze within three days of notification from the consumer. The bill requires the consumer credit reporting agency to provide the consumer with a personal identification number or password to be used by the consumer in the case where a consumer may wish to provide for the limited release of his or her credit report for a designated period of time during the security freeze.

If the consumer wishes to allow his or her credit report to be accessed for a designated period of time while a security freeze is in effect, he or she must contact the consumer credit reporting agency, request that the freeze be temporarily lifted, and provide: proper identification as determined by the consumer credit reporting agency; the personal identification number or password previously provided to the consumer by the consumer credit reporting agency; and the proper information regarding the specified period of time for which the report shall be made temporarily available.

The bill requires a consumer credit reporting agency to lift the security freeze within three days of receiving a request from a consumer to temporarily lift the security freeze and allows a consumer credit reporting agency to use telephonic communication or any form of secure electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report. The bill provides that consumer credit reporting agencies should have a goal of processing such requests within 15 minutes after receiving the request.

The bill allows a third party requesting access to a consumer credit report to treat the application as incomplete if the consumer has not authorized a temporary lifting of the security freeze for the period of time in which the request is made.

Exemptions

The bill provides the following exemptions for use of a credit report by certain entities regardless of a security freeze being placed on a consumer's credit report:

- Any person to whom the consumer owes a financial obligation under certain circumstances;
- A subsidiary, affiliate, agent, assignee of a person to whom access has been granted for purposes of facilitating the extension of credit or other permissible use;
- Any state agency acting within its lawful investigative or regulatory authority;
- A state or local law enforcement agency acting to investigate a crime or conducting a criminal background check;
- Any person administering a credit file monitoring subscription service to which the consumer has subscribed;
- Any person for the purpose of providing a consumer with a copy of the consumer's credit report upon the consumer's request;
- Pursuant to a court order lawfully entered; or
- The use of credit information for the purposes of prescreening as provided for by the FCRA.

In addition, check services companies and demand deposit account information services companies are not required to place a freeze on a consumer's credit report. Resellers of consumer credit information are also exempt, however they must honor a security freeze placed on a consumer credit report.

Fees

The bill allows a consumer credit reporting agency to charge a fee, not to exceed \$5, when a consumer elects to temporarily lift or remove a security freeze on his or her credit report. The bill disallows a consumer credit reporting agency to charge a fee to a consumer wishing to place a security freeze on his or her credit report. A consumer may be charged a fee, not to exceed \$5, if the consumer forgets or misplaces the identification number or password provided by the consumer credit reporting agency and the agency must reissue the information to the consumer.

Consumer Information

The bill does not allow a consumer credit reporting agency to change a consumer's official information in a credit report when a security freeze is in effect without sending a written confirmation of the change to the consumer within 30 days of making the change. "Official information" includes the consumer's name, address, date of birth, and social security number. In the case of an address change, the bill requires the written confirmation to be sent to the new address and the former address of the consumer.

The bill provides that a written confirmation is not required for technical modifications to a consumer's official information including name and street abbreviations, complete spellings, or transposition of numbers or letters.

Cause of Action

The bill creates a new cause of action for any person who is aggrieved by a knowing or willful violation of the provisions of the bill for the recovery of actual and consequential damages, court costs, and attorney's fees.

Disclosure

The bill requires a consumer credit reporting agency to include a written summary of all rights under the bill to a consumer when sending the consumer a written disclosure. The bill details the information that must be included in the written summary of consumer rights, including the right to civil action. Consumer credit reporting agencies which maintain consumer credit reports on a nationwide basis

must provide a toll free telephone number for the consumer to use if he or she wishes to communicate with the consumer credit reporting agency.

C. SECTION DIRECTORY:

Section 1. Creates s. 501.005, F.S., authorizing and providing the procedures for a consumer to place a security freeze on his or her credit report. Provides definitions pertaining to a credit report security freeze. Provides procedures for temporary suspension and removal of a security freeze on a credit report. Provides procedures to allow temporary access to a credit report under a security freeze. Authorizes credit reporting agencies to charge a fee to temporarily lift or remove a security freeze and disallows such fees for placing a security freeze on a consumer's credit report. Provides exemptions for certain entities. Provides civil remedy. Provides requirements for written disclosure.

Section 2. Provides that the act will take effect on July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill allows consumer credit reporting agencies to charge a reasonable fee any time a consumer chooses to temporarily lift or remove a freeze from his or her credit report.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On October 18, 2005, the Economic Development, Trade and Banking Committee adopted a strike-all amendment to the bill. The amendment does the following:

- Decreases the time in which a consumer credit reporting agency must send a written confirmation of the security freeze to a consumer from 10 days to 5 days.
- Provides that a consumer credit reporting agency must strive to process within 15 minutes a request from a consumer to temporarily lift his or her security freeze.
- Clarifies the entities that are exempt from a security freeze and may access a credit report to include state agencies, local or state law enforcement and other appropriate persons.
- Provides that a consumer credit reporting agency may not charge a consumer to place a security freeze on his or her credit report, but may impose a fee, of not more than \$5, for the consumer to temporarily lift or remove a security freeze from his or her credit report.
- Provides that a consumer credit reporting agency may charge a fee, not more than \$5, if a consumer fails to retain the original personal identification number or password provided by the consumer credit reporting agency and the agency must reissue the information to the consumer.
- Clarifies that a civil action may be brought for the knowing or willful violation of the bill's provisions.
- Provides that a consumer wishing to place a security freeze on his or her credit report must do so in writing by certified mail to a consumer credit reporting agency.
- Clarifies that the temporary lifting of a security freeze is for a specific period of time, not for a specific recipient.

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CHAMBER ACTION

The Economic Development, Trade & Banking Committee recommends
the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to security of consumer credit report
information; creating s. 501.005, F.S.; authorizing a
consumer to place a security freeze on his or her consumer
credit report; defining "consumer credit report security
freeze"; providing procedures and requirements with
respect to the placement, temporary suspension, and
removal of a security freeze on a consumer credit report;
authorizing a consumer to allow specified temporary access
to his or her credit report during a security freeze;
providing procedures with respect to such temporary
access; providing for removal of a security freeze when a
consumer's credit report was frozen due to a material
misrepresentation of fact by the consumer; providing
applicability; prohibiting a consumer credit reporting
agency from charging a fee to place a security freeze on a
consumer credit report; authorizing consumer credit

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reporting agencies to charge a fee to remove or temporarily lift a security freeze and to reissue a personal identification number or password; restricting the change of specified information in a consumer credit report when a security freeze is in effect; providing an exemption for certain persons or entities; providing for civil remedy; providing requirements with respect to written disclosure by a consumer credit reporting agency of procedures and consumer rights associated with a security freeze; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 501.005, Florida Statutes, is created to read:

501.005 Consumer credit report security freeze.--

(1) A consumer may place a security freeze on his or her consumer credit report by making a request in writing by certified mail to a consumer credit reporting agency. For purposes of this section, "consumer credit report security freeze" or "security freeze" means a notice placed in a consumer's credit report that prohibits a consumer credit reporting agency from releasing the consumer's credit report or any information contained within the credit report to a third party without the express authorization of the consumer. This section does not prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

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52 (2) A consumer credit reporting agency shall place a
53 security freeze on a consumer's credit report no later than 5
54 business days after receiving a request from the consumer.

55 (3) The consumer credit reporting agency shall send a
56 written confirmation of the security freeze to the consumer
57 within 5 business days after instituting the security freeze and
58 shall provide the consumer with a unique personal identification
59 number or password to be used by the consumer when providing
60 authorization for the limited release of his or her credit
61 report for a designated period of time during the security
62 freeze as provided in subsection (4).

63 (4) A consumer may allow his or her credit report to be
64 accessed for a designated period of time while a security freeze
65 is in effect by contacting the consumer credit reporting agency
66 and requesting that the freeze be temporarily lifted. The
67 consumer must provide the following information to the consumer
68 credit reporting agency as part of the request:

69 (a) Proper identification as determined by the consumer
70 credit reporting agency.

71 (b) The unique personal identification number or password
72 provided by the consumer credit reporting agency pursuant to
73 subsection (3).

74 (c) Information specifying the period of time for which
75 the report shall be made available.

76 (5) A consumer credit reporting agency that receives a
77 request from a consumer to temporarily lift a freeze on a credit
78 report pursuant to subsection (4) shall comply with the request
79 no later than 3 business days after receiving the request.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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80 (6) A consumer credit reporting agency shall use
81 telephonic communication or any form of secure electronic media
82 to receive and process a request from a consumer pursuant to
83 subsection (4) with the goal of processing a request within 15
84 minutes after receipt of such request.

85 (7) A consumer credit reporting agency shall temporarily
86 lift or remove a security freeze placed on a consumer's credit
87 report only in the following instances:

88 (a) Upon consumer request, pursuant to subsection (4) or
89 subsection (10).

90 (b) If the consumer's credit report was frozen due to a
91 material misrepresentation of fact by the consumer. If a
92 consumer credit reporting agency intends to remove a security
93 freeze on a consumer's credit report pursuant to this paragraph,
94 the consumer credit reporting agency shall notify the consumer
95 in writing prior to removing the security freeze.

96 (8) A third party requesting access to a consumer credit
97 report on which a security freeze is in effect in connection
98 with an application for credit or other permissible use may
99 treat the application as incomplete if the consumer has not
100 authorized a temporary lifting of the security freeze for the
101 period of time during which the request is made.

102 (9) If a consumer requests a security freeze, the consumer
103 credit reporting agency shall disclose to the consumer all
104 information relevant to the process of instituting, temporarily
105 lifting, and removing a security freeze and shall include the
106 disclosure required by subsection (16).

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(10) A security freeze shall remain in place until the consumer requests that it be removed. A consumer credit reporting agency shall remove a security freeze within 3 business days after receiving a request for removal from the consumer, who, upon making the request for removal, must provide the following:

(a) Proper identification as determined by the consumer credit reporting agency.

(b) The unique personal identification number or password provided by the credit reporting agency pursuant to subsection (3).

(11) The provisions of this section do not apply to the use of a consumer credit report by the following persons or for the following reasons:

(a) A person to whom the consumer owes a financial obligation or a subsidiary, affiliate, or agent of the person, or an assignee of a financial obligation owed by the consumer to the person, or a prospective assignee of a financial obligation owed by the consumer to the person in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owed for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

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(b) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under this section for purposes of facilitating the extension of credit or other permissible use.

(c) A state agency acting within its lawful investigative or regulatory authority.

(d) A state or local law enforcement agency acting to investigate a crime or conducting a criminal background check.

(e) Any person administering a credit file monitoring subscription service to which the consumer has subscribed.

(f) Any person for the purpose of providing a consumer with a copy of the consumer's credit report upon the consumer's request.

(g) Pursuant to a court order lawfully entered.

(h) The use of credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act.

(12) A consumer credit reporting agency shall not charge a consumer a fee to place a security freeze on the consumer's credit report. A consumer credit reporting agency may charge a reasonable fee, not to exceed \$5, to a consumer who elects to remove or temporarily lift a security freeze on his or her consumer credit report. A consumer may be charged a reasonable fee, not to exceed \$5, if the consumer fails to retain the original personal identification number or password provided by the consumer credit reporting agency, and the agency must reissue the personal identification number or password or

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provide a new personal identification number or password to the consumer.

(13) If a security freeze is in effect, a consumer credit reporting agency shall not change any of the following official information in a consumer credit report without sending a written confirmation of the change to the consumer within 30 days after the change is posted to the consumer's file:

(a) Name.

(b) Address.

(c) Date of birth.

(d) Social security number.

Written confirmation is not required for technical corrections of a consumer's official information, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and the former address.

(14) The provisions of this section do not apply to the following entities:

(a) A check services company, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment.

(b) A demand deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, automatic teller machine abuse, or similar negative information regarding a consumer to inquiring

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banks or other financial institutions for use only in reviewing
a consumer request for a demand deposit account at the inquiring
bank or financial institution, as defined in s. 655.005(1)(g) or
(h).

(c) A consumer credit reporting agency that acts only as a
reseller of credit information by assembling and merging
information contained in the database of another consumer credit
reporting agency or multiple consumer credit reporting agencies
and does not maintain a permanent database of credit information
from which new consumer credit reports are produced. However, a
consumer credit reporting agency shall honor any security freeze
placed on a consumer credit report by another consumer credit
reporting agency.

(15) In addition to any other penalties or remedies
provided under law, a person who is aggrieved by a knowing or
willful violation of the provisions of this section may bring a
civil action in any court of competent jurisdiction against any
person or entity, including a consumer credit reporting agency,
for recovery of actual and consequential damages, court costs,
and attorney's fees.

(16) Any written disclosure by a consumer credit reporting
agency to any consumer pursuant to this section shall include a
written summary of all rights the consumer has under this
section, and, in the case of a consumer credit reporting agency
which compiles and maintains consumer credit reports on a
nationwide basis, a toll-free telephone number which the
consumer can use to communicate with the consumer credit
reporting agency. The written summary of rights required under

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218 this section is sufficient if it is in substantially the
219 following form:

220
221 You have a right to place a "security freeze" on your
222 credit report, which will prohibit a consumer credit reporting
223 agency from releasing any information in your credit report
224 without your express authorization. A security freeze must be
225 requested in writing by certified mail to a consumer credit
226 reporting agency. The security freeze is designed to prevent
227 credit, loans, and services from being approved in your name
228 without your consent. However, you should be aware that using a
229 security freeze to control access to the personal and financial
230 information in your credit report may delay, interfere with, or
231 prohibit the timely approval of any subsequent request or
232 application you make regarding a new loan, credit, mortgage,
233 insurance, government services or payments, rental housing,
234 employment, investment, license, cellular phone, utilities,
235 digital signature, Internet credit card transaction, or other
236 services, including an extension of credit at point of sale.
237 When you place a security freeze on your credit report, you will
238 be provided a personal identification number or password to use
239 if you choose to remove the freeze on your credit report or
240 authorize the release of your credit report for a designated
241 period of time after the security freeze is in place. To provide
242 that authorization, you must contact the consumer credit
243 reporting agency and provide all of the following:

244 (1) The personal identification number or password.

245 (2) Proper identification to verify your identity.

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(3) Information specifying the period of time for which the report shall be made available.

A consumer credit reporting agency must authorize the release of your credit report no later than 3 business days after receiving the above information.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account, that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

You have the right to bring a civil action against anyone, including a consumer credit reporting agency, who fails to comply with the provisions of s. 501.005, Florida Statutes, which governs the placing of a consumer credit report security freeze on your consumer credit report. This includes the right to bring a civil action against any person for recovery of your actual and consequential damages, court costs, and attorney's fees caused by a knowing or willful violation of the law.

Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1(for drafter's use only)

Bill No. 0037

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Agriculture Committee
2 Representative(s) Adams offered the following:

4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6
7 Section 1. Section 501.005, Florida Statutes, is created
8 to read:

9 501.005 Consumer report security freeze.--

10 (1) For purposes of this section, "consumer report
11 security freeze" or "security freeze" means a notice placed in a
12 consumer report that prohibits a consumer reporting agency, as
13 defined in 15 U.S.C. s. 1681a(f), from releasing the consumer
14 report, credit score, or any information contained within the
15 consumer report, to a third party without the express
16 authorization of the consumer. This section does not prevent a
17 consumer reporting agency from advising a third party that a
18 security freeze is in effect with respect to the consumer
19 report.

20 (2) A consumer may place a security freeze on his or her
21 consumer report by making a request in writing by certified mail
22 to a consumer reporting agency.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1(for drafter's use only)

23 (3) A consumer reporting agency shall place a security
24 freeze on a consumer report no later than 5 business days after
25 receiving a request from the consumer.

26 (4) The consumer reporting agency shall send a written
27 confirmation of the security freeze to the consumer within 5
28 business days after instituting the security freeze and shall
29 provide the consumer with a unique personal identification
30 number or password to be used by the consumer when providing
31 authorization for the limited release of his or her consumer
32 report for a designated period of time during the security
33 freeze as provided in subsection (5).

34 (5) A consumer may allow his or her consumer report to be
35 accessed for a designated period of time while a security freeze
36 is in effect by contacting the consumer reporting agency and
37 requesting that the freeze be temporarily lifted. The consumer
38 must provide the following information to the consumer reporting
39 agency as part of the request:

40 (a) Proper identification as determined by the consumer
41 reporting agency.

42 (b) The unique personal identification number or password
43 provided by the consumer reporting agency pursuant to subsection
44 (3).

45 (c) Information specifying the period of time for which
46 the report shall be made available.

47 (6) A consumer reporting agency that receives a request
48 from a consumer to temporarily lift a freeze on a consumer
49 report pursuant to subsection (5) shall comply with the request
50 no later than 3 business days after receiving the request.

51 (7) A consumer reporting agency shall develop telephonic
52 communication or any form of secure electronic media to receive

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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53 and process a request from a consumer pursuant to subsection
54 (5).

55 (8) A consumer reporting agency shall temporarily lift or
56 remove a security freeze placed on a consumer report only in the
57 following instances:

58 (a) Upon consumer request, pursuant to subsections (5) or
59 (11).

60 (b) If the consumer report was frozen due to a material
61 misrepresentation of fact by the consumer. If a consumer
62 reporting agency intends to remove a security freeze on a
63 consumer report pursuant to this paragraph, the consumer
64 reporting agency shall notify the consumer in writing prior to
65 removing the security freeze.

66 (9) A third party requesting access to a consumer report
67 on which a security freeze is in effect in connection with an
68 application for credit or other permissible use may treat the
69 application as incomplete if the consumer has not authorized a
70 temporary lifting of the security freeze for the period of time
71 during which the request is made.

72 (10) If a consumer requests a security freeze, the
73 consumer reporting agency shall disclose to the consumer all
74 information relevant to the process of instituting, temporarily
75 lifting, and removing a security freeze and shall include the
76 disclosure required by subsection (17).

77 (11) A security freeze shall remain in place until the
78 consumer requests that it be removed. A consumer reporting
79 agency shall remove a security freeze within 3 business days
80 after receiving a request for removal from the consumer, who,
81 upon making the request for removal, must provide the following:

82 (a) Proper identification as determined by the consumer
83 reporting agency.

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84 (b) The unique personal identification number or password
85 provided by the consumer reporting agency pursuant to subsection
86 (4).

87 (12) The provisions of this section do not apply to the
88 use of a consumer report by the following persons or for the
89 following reasons:

90 (a) A person to whom the consumer owes a financial
91 obligation or a subsidiary, affiliate, or agent of the person,
92 or an assignee of a financial obligation owed by the consumer to
93 the person, or a prospective assignee of a financial obligation
94 owed by the consumer to the person in conjunction with the
95 proposed purchase of the financial obligation, with which the
96 consumer has or had prior to assignment an account or contract,
97 including a demand deposit account, or to whom the consumer
98 issued a negotiable instrument, for the purposes of reviewing
99 the account or collecting the financial obligation owed for the
100 account, contract, or negotiable instrument. For purposes of
101 this paragraph, "reviewing the account" includes activities
102 related to account maintenance, monitoring, credit line
103 increases, and account upgrades and enhancements.

104 (b) A subsidiary, affiliate, agent, assignee, or
105 prospective assignee of a person to whom access has been granted
106 under this section for purposes of facilitating the extension of
107 credit or other permissible use.

108 (c) A state agency acting within its lawful investigative
109 or regulatory authority.

110 (d) A state or local law enforcement agency acting to
111 investigate a crime or conducting a criminal background check.

112 (e) Any person administering a credit file monitoring
113 subscription service to which the consumer has subscribed.

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114 (f) Any person for the purpose of providing a consumer
115 with a copy of the consumer report upon the consumer's request.

116 (g) Pursuant to a court order lawfully entered.

117 (h) The use of credit information for the purposes of
118 prescreening as provided for by the federal Fair Credit
119 Reporting Act.

120 (13) A consumer reporting agency shall not charge any
121 fee to a victim of identity theft who has submitted, at the time
122 the security freeze is requested, a copy of a valid
123 investigative or incident report or complaint with a law
124 enforcement agency about the unlawful use of the victim's
125 identifying information by another person. A consumer reporting
126 agency may charge a reasonable fee, not to exceed \$10, to a
127 consumer who elects to place, remove, or temporarily lift a
128 security freeze on his or her consumer report. A consumer may be
129 charged a reasonable fee, not to exceed \$10, if the consumer
130 fails to retain the original personal identification number or
131 password provided by the consumer reporting agency, and the
132 agency must reissue the personal identification number or
133 password or provide a new personal identification number or
134 password to the consumer.

135 (14) If a security freeze is in effect, a consumer
136 reporting agency shall not change any of the following official
137 information in a consumer report without sending a written
138 confirmation of the change to the consumer within 30 days after
139 the change is posted to the consumer's file:

140 (a) Name.

141 (b) Address.

142 (c) Date of birth.

143 (d) Social security number.

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145 Written confirmation is not required for technical corrections
146 of a consumer's official information, including name and street
147 abbreviations, complete spellings, or transposition of numbers
148 or letters. In the case of an address change, the written
149 confirmation shall be sent to both the new address and the
150 former address.

151 (15) The provisions of this section do not apply to the
152 following entities:

153 (a) A check services company, which issues authorizations
154 for the purpose of approving or processing negotiable
155 instruments, electronic funds transfers, or similar methods of
156 payment.

157 (b) A demand deposit account information service company,
158 which issues reports regarding account closures due to fraud,
159 substantial overdrafts, automatic teller machine abuse, or
160 similar negative information regarding a consumer to inquiring
161 banks or other financial institutions for use only in reviewing
162 a consumer request for a demand deposit account at the inquiring
163 bank or financial institution, as defined in s. 655.005(1)(g) or
164 (h), or in federal law.

165 (c) A consumer reporting agency that acts only as a
166 reseller of credit information by assembling and merging
167 information contained in the database of another consumer
168 reporting agency or multiple consumer reporting agencies and
169 does not maintain a permanent database of credit information
170 from which new consumer reports are produced. However, a
171 consumer reporting agency shall honor any security freeze placed
172 on a consumer report by another consumer reporting agency.

173 (d) A fraud prevention services company issuing reports
174 to prevent or investigate fraud.

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175 (16) In addition to any other penalties or remedies
176 provided under law, a person who is aggrieved by a violation of
177 the provisions of this section may bring a civil action as
178 authorized by this subsection.

179 (a) Any person who willfully fails to comply with any
180 requirement imposed under this section with respect to any
181 consumer is liable to that consumer for actual damages sustained
182 by the consumer as a result of the failure or damages of not
183 less than \$100 and not more than \$1,000.

184 (b) Any individual who obtains a consumer report under
185 false pretenses or knowingly without a permissible purpose is
186 liable to the consumer for actual damages sustained by the
187 consumer as a result of the failure or damages of not less than
188 \$100 and not more than \$1,000, whichever is greater. Any person
189 who obtains a consumer report from a consumer reporting agency
190 under false pretenses or knowingly without a permissible purpose
191 is liable to the consumer reporting agency for actual damages
192 sustained by the consumer reporting agency or \$1,000, whichever
193 is greater.

194 (c) Punitive damages may be assessed for willful
195 violations of this section.

196 (d) Any person who is negligent in failing to comply with
197 any requirement imposed under this section with respect to any
198 consumer is liable to that consumer for any actual damages
199 sustained by the consumer as a result of the failure, plus the
200 costs of the action together with reasonable attorney's fees.

201 (e) Upon a finding by the court that an unsuccessful
202 pleading, motion, or other paper filed in connection with an
203 action under this subsection was filed in bad faith or for
204 purposes of harassment, the court shall award to the prevailing
205 party attorney's fees that are reasonable in relation to the

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work performed in responding to the pleading, motion, or other paper.

(17) Any written disclosure by a consumer reporting agency to any consumer, pursuant to 15 U.S.C. s. 1681g, shall include a written summary of all rights the consumer has under this section, and, in the case of a consumer reporting agency which compiles and maintains consumer reports on a nationwide basis, a toll-free telephone number which the consumer can use to communicate with the consumer reporting agency. The information set forth in paragraph (b) of the written summary of rights must be in at least 14-point boldface type in capital letters. The written summary of rights required under this section is sufficient if it is substantially in the following form:

(a) You have a right to place a "security freeze" on your consumer report, which will prohibit a consumer reporting agency from releasing any information in your consumer report without your express authorization. A security freeze must be requested in writing by certified mail to a consumer reporting agency. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent.

(b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN YOUR CONSUMER REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION YOU MAKE REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

236 (c) When you place a security freeze on your consumer
237 report, you will be provided a personal identification number or
238 password to use if you choose to remove the freeze on your
239 consumer report or authorize the release of your consumer report
240 for a designated period of time after the security freeze is in
241 place. To provide that authorization, you must contact the
242 consumer reporting agency and provide all of the following:

243 1. The personal identification number or password.
244 2. Proper identification to verify your identity.
245 3. Information specifying the period of time for which
246 the report shall be made available.

247 (d) A consumer reporting agency must authorize the
248 release of your consumer report no later than 3 business days
249 after receiving the above information.

250 (e) A security freeze does not apply to a person or
251 entity, or its affiliates, or collection agencies acting on
252 behalf of the person or entity, with which you have an existing
253 account, that requests information in your consumer report for
254 the purposes of reviewing or collecting the account. Reviewing
255 the account includes activities related to account maintenance,
256 monitoring, credit line increases, and account upgrades and
257 enhancements.

258 (f) You have the right to bring a civil action against
259 anyone, including a consumer reporting agency, who fails to
260 comply with the provisions of s. 501.005, Florida Statutes,
261 which governs the placing of a consumer report security freeze
262 on your consumer report.

263 Section 2. This act shall take effect July 1, 2006.

264
265
266 ===== T I T L E A M E N D M E N T =====

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

Remove the entire title and insert:

A bill to be entitled

An act relating to security of consumer report information; creating s. 501.005, F.S.; defining "consumer report security freeze"; authorizing a consumer to place a security freeze on his or her consumer report; providing procedures and requirements with respect to the placement, temporary suspension, and removal of a security freeze on a consumer report; authorizing a consumer to allow specified temporary access to his or her consumer report during a security freeze; providing procedures with respect to such temporary access; providing for removal of a security freeze when a consumer report was frozen due to a material misrepresentation of fact by the consumer; providing applicability; prohibiting a consumer reporting agency from charging a fee to a victim of identity theft who requests a security freeze on a consumer report; authorizing consumer reporting agencies to charge a fee to place, remove, or temporarily lift a security freeze and to reissue a personal identification number; restricting the change of specified information in a consumer report when a security freeze is in effect; specifying applicability with respect to certain consumer reporting agencies; specifying entities that are exempt from placing a security freeze on a consumer report; providing for civil remedy; providing requirements with respect to written disclosure by a consumer reporting agency of procedures and consumer rights associated with a security freeze; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 365
SPONSOR(S): Glorioso
TIED BILLS:

Motor Vehicle Repair Shops

IDEN./SIM. BILLS: SB 108

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Agriculture Committee</u>		Reese	Reese
2) <u>Insurance Committee</u>			
3) <u>Governmental Operations Committee</u>			
4) <u>Agriculture & Environment Appropriations Committee</u>			
5) <u>State Resources Council</u>			

SUMMARY ANALYSIS

HB 365 authorizes citation of the act as the "Abelardo 'Al' Castillo Act".

The bill requires a motor vehicle repair shop to provide proof of at least \$300,000 of liability insurance on repairs performed by the shop as a condition of registration or renewal of registration with the Department of Agriculture and Consumer Services (department). The failure to provide proof of liability insurance is grounds for denial, revocation, or refusal of registration by the department. This bill also provides the department with the authority to impose an administrative fine of not more than \$5,000 if the repair shop does not maintain the required insurance, and also provides a criminal penalty for failure to maintain the required insurance.

This bill will not have a fiscal impact on state or local government.

This bill will take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility – This bill requires a motor vehicle repair shop to purchase liability coverage of at least \$300,000 on repairs performed by the shop.

B. EFFECT OF PROPOSED CHANGES:

Florida Motor Vehicle Repair Act

The Florida Motor Vehicle Repair Act is contained in ss. 559.901- 559.9221, F.S. The act requires all motor vehicle repair shops to register with the Department of Agriculture and Consumer Services (department).¹ The act also requires repair shops to provide estimates for repairs, invoices for completed repairs,² and makes it unlawful for the cost of repairs to exceed the estimate by specified amounts.³ The act provides that certain actions are prohibited, including, but not limited to: making or charging for repairs not authorized by the customer; misrepresenting certain parts and services necessary to repair a vehicle; and, willfully departing from accepted practices and professional standards.⁴

The Florida Motor Vehicle Repair Act does not apply to the following motor vehicle repair shops:

- Any motor vehicle repair shop of municipal, county, state, or federal government when carrying out the functions of the government;
- Any person who engages solely in the repair of:
 - motor vehicles which are owned, maintained, and operated exclusively by such person for that person's own use; or
 - for-hire vehicles, as defined in s. 320.01(15) (a), F.S., which are rented for periods of 30 days or less;
- Any person who repairs only motor vehicles which are operated principally for agricultural and horticultural pursuits on farms, groves, and orchards;
- Motor vehicle auctions licensed under s. 320.27(1)(c)4, F.S., and persons performing motor vehicle repair solely for such auctions; and
- Any shop located in a public school as defined in s. 1000.04, F.S., or a charter technical career center as defined in s. 1002.34, F.S.

However, these motor vehicle repair shops may voluntarily register under the act.⁵

Vehicle Repair Shop Registration

Section 559.904(1), F.S., requires applicants registering for motor vehicle repair shops to provide the following information:

- The name of the applicant;
- The name under which the applicant is doing business;
- The business address at which the applicant performs repair work or in the case of a mobile motor vehicle repair shop, the home address of the owner, if different from the business address;

¹ Section 559.904, F.S.

² Section 559.905, F.S.

³ Section 559.909, F.S.

⁴ Section 559.920, F.S.

⁵ Section 559.902, F.S.

- Copies of all licenses, permits, and certifications obtained by the applicant or employees of the applicant; and
- The numbers of employees which the applicant intends to employ or which are currently employed.

Each application for registration must be accompanied by a registration fee calculated on a per-year basis as follows: If the place of business has 1 to 5 employees, the fee is \$50; if the place of business has 6 to 10 employees, the fee is \$150; and, if the place of business has 11 or more employees, the fee is \$300.⁶

Enforcement Authority

If a motor vehicle repair shop violates the provisions of s. 559.921(4)(a), F.S., which violations include:

- Making a material false statement in any application, document, or record required to be submitted or retained under this part;
- Refusal or failure, or any of its principal officers refusing or failing, after notice, to produce any document or record or disclose any information required to be produced or disclosed under this part or the rules of the department; or
- Making a material false statement in response to any request or investigation by the department, the Department of Legal Affairs, or the state attorney;

the department may:

- Issue a notice of noncompliance pursuant to s. 120.695, F.S.;
- Impose an administrative fine not to exceed \$1,000 per violation for each act which constitutes a violation of this part or a rule or order;
- Direct that the motor vehicle repair shop cease and desist specified activities;
- Refuse to register or revoke or suspend a registration; or
- Place the registrant on probation for a period of time, subject to such conditions as the department may specify.

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Per the bill's sponsor, this proposed legislation was prompted by the death of Mr. Abelardo "Al" Castillo, who was killed in 2001 following repair work done at a small vehicle repair shop in Pasco County. A wheel was improperly fastened to Mr. Castillo's car and came off while he was driving home. He died in the ensuing accident. Mr. Castillo, 41 at the time of his death, was survived by his wife and five small children.

Mr. Castillo's widow attempted to file charges against the owner of the repair shop but was told no criminal violation had occurred. She also attempted to seek civil damages from the owner and was told that there are no statutes requiring liability coverage for work performed in a vehicle repair shop. A civil action against the shop's owner personally also was not successful. The owner was quoted in the St. Petersburg Times as stating that he had liability insurance but let it lapse a few months before the accident.⁷

The bill requires a motor vehicle repair shop to obtain liability coverage for repairs performed by the shop of at least \$300,000, and provides that failure to maintain the required coverage is grounds for denial, revocation, or refusal of registration with the department. The bill also provides the department with the authority to impose an administrative fine of not more than \$5,000 if the repair shop does not maintain the required insurance, and also provides a criminal penalty, established as a misdemeanor of the second degree, for failure to maintain the required insurance. The bill provides an effective date of July 1, 2006.

⁶ Section 559.904(3), F.S.

⁷ *St. Petersburg Times*, Jan. 28, 2005

C. SECTION DIRECTORY:

Section 1. Designates the act as the "Abelardo 'Al' Castillo Act."

Section 2. Amends s. 559.904, F.S., to require certain motor vehicle repair shops to have liability insurance in the amount of \$300,000 on repairs they perform as a condition of registration or renewal of registration, and provides that failure to maintain such insurance is grounds for denial, revocation, or refusal of registration by the department.

Section 3. Amends s. 559.921, F.S., to provide authority to the department to impose a fine not to exceed \$5,000 if a motor vehicle repair shop fails to maintain the required insurance. This section also provides a criminal penalty, established as a misdemeanor of the second degree, for failure of a motor vehicle repair shop to maintain the required insurance.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Department of Agriculture and Consumer Services (department), this bill will not have a revenue impact on state government.

2. Expenditures:

According to the department, this bill will not require it to expend funds to implement the bill's provisions.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Certain motor vehicle repair shops will be required to purchase liability coverage for repairs, which may be an additional cost of doing business to those repair shops.

D. FISCAL COMMENTS:

The criminal penalty established by the bill for failure to maintain the required insurance may result in some expenses related to criminal prosecution for enforcement. The cost is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, nor does it reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor does it reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

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A bill to be entitled

An act relating to motor vehicle repair shops; amending s. 559.904, F.S.; requiring applicants for registration to furnish proof of certain liability insurance; providing that failure to maintain such insurance is grounds for denial, revocation, or refusal to renew a registration; amending s. 559.921, F.S.; providing that a violation of the requirement to maintain liability insurance is a criminal violation; providing administrative fines and criminal penalties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Abelardo 'Al' Castillo Act."

Section 2. Subsection (10) of section 559.904, Florida Statutes, is amended, and subsection (13) is added to that section, to read:

559.904 Motor vehicle repair shop registration; application; exemption.--

(10) The department may deny, revoke, or refuse to renew the registration of a motor vehicle repair shop based upon a determination that the motor vehicle repair shop, or any of its directors, officers, owners, or general partners:

(a) Have failed to meet the requirements for registration as provided in this part;

(b) Have not satisfied a civil fine, administrative fine, or other penalty arising out of any administrative or

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29 enforcement action brought by any governmental agency based upon
30 conduct involving fraud, dishonest dealing, or any violation of
31 this part;

32 (c) Have had against them any civil, criminal, or
33 administrative adjudication in any jurisdiction, based upon
34 conduct involving fraud, dishonest dealing, or any violation of
35 this part; ~~or~~

36 (d) Have had a judgment entered against them in any action
37 brought by the department or the state attorney pursuant to ss.
38 501.201-501.213 or this part; or

39 (e) Have not maintained in force the insurance required
40 under subsection (13).

41 (13) Each applicant for an initial or renewal registration
42 under this section shall provide the department with evidence of
43 current and valid liability insurance in an amount not less than
44 \$300,000 on repairs performed by the motor vehicle repair shop.
45 The department shall require that an applicant present a
46 certificate of insurance issued by an insurance company or
47 carrier authorized to transact business in this state before an
48 initial or renewal registration certificate may be issued to the
49 applicant.

50 Section 3. Paragraph (b) of subsection (4) of section
51 559.921, Florida Statutes, is amended, and subsection (9) is
52 added to that section, to read:

53 559.921 Remedies.--

54 (4)

55 (b) Upon a finding as set forth in paragraph (a), the
56 department may enter an order doing one or more of the

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following:

1. Issuing a notice of noncompliance pursuant to s. 120.695.

2. Imposing an administrative fine not to exceed \$1,000 per violation for each act which constitutes a violation of this part or a rule or order.

3. Imposing an administrative fine not to exceed \$5,000 per violation for failure to maintain the liability insurance required under s. 559.904(13).

~~4.3.~~ Directing that the motor vehicle repair shop cease and desist specified activities.

~~5.4.~~ Refusing to register or revoking or suspending a registration.

~~6.5.~~ Placing the registrant on probation for a period of time, subject to such conditions as the department may specify.

(9) A person who engages in motor vehicle repair and does not maintain current and valid liability insurance as required under s. 559.904(13) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. This act shall take effect July 1, 2006.

METTING HAND OUT

A. DUDA & SONS

ALICO, INC.

BEN HILL GRIFFIN, INC.

DADE COUNTY FARM BUREAU

FLORIDA AGRIPARTNERS

FLORIDA CATTLEMEN'S ASSOCIATION

FLORIDA CITRUS MUTUAL

FLORIDA CITRUS PROCESSORS ASSOCIATION

FLORIDA CRYSTALS CORPORATION

FLORIDA FARM BUREAU FEDERATION

FLORIDA FERTILIZER & AGRICHEMICAL ASSOCIATION

FLORIDA FORESTRY ASSOCIATION

FLORIDA FRUIT & VEGETABLE ASSOCIATION

FLORIDA LAND COUNCIL

FL NURSERY, GROWERS & LANDSCAPE ASSOCIATION

FLORIDA PHOSPHATE COUNCIL

FLORIDA POULTRY FEDERATION

FLORIDA PULP & PAPER ASSOCIATION

FLORIDA STRAWBERRY GROWERS ASSOCIATION

GULF CITRUS GROWERS ASSOCIATION

HILLIARD BROS. OF FLORIDA

INDIAN RIVER CITRUS LEAGUE

LYKES BROS., INC.

PEACE RIVER VALLEY CITRUS GROWERS ASSOCIATION

SMURFIT-STONE CONTAINER CORP.

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SUGAR CANE GROWERS COOPERATIVE OF FLORIDA

SUNSHINE STATE MILK PRODUCERS

U.S. SUGAR CORPORATION

FLORIDA AGRICULTURAL COALITION

AGRICULTURAL HURRICANE RELIEF PROPOSALS (updated 12/1/05)

* CITRUS CANCER ERADICATION FUNDING

- \$28.25 million Citrus Canker Eradication
- \$9.87 million Shade Florida Card
- \$6.78 million Homeowner Compensation

* FARM INFRASTRUCTURE RECONSTRUCTION FUNDING

- 0% interest loans
- \$200 million funding
- Repayment per Section 570.249, (6), F.S.
- \$2 million cap per applicant
- Expanded list of activities covered per 570.249, F.S.

* AG HURRICANE DEBRIS REMOVAL

- \$14 million as a state contribution
- Funding partnership: 1/3 State, 1/3 Local Gov., 1/3 Farmer

* MIGRANT FARMWORKER HOUSING

- \$50 million program

* SMALL FARMER BRIDGE LOANS

- \$20 million program
- \$25,000 cap per applicant, plus gross income limitations
- 365 day repayment period

* WAIVER OF CERTAIN STATE, WMD'S AND LOCAL PERMITS FOR SEVERAL MONTHS

- Permits for burning of hurricane debris
- Waive weight restrictions for trucks hauling agricultural loads
- Replacement of mobile homes for farmworker housing
- Cleaning of ditches and canals

* STATE GAS/ FUEL TAX EXEMPTION FOR AGRICULTURAL ON-ROAD TRAVEL FOR ONE YEAR

- Certified ag operator
- Receipts required

P.O. BOX 1696 . TALLAHASSEE, FL 32302 . PHONE 850-222-5646 . FAX 222-6179

EMAIL: ALAN@FORESTFLA.ORG . WWW.FLAGCOALITION.COM